

1 ENGROSSED SENATE
2 BILL NO. 549

By: Holt of the Senate

and

West (Tammy) of the House

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6 [employment practices - Family and Medical Leave Act
7 - prohibited acts - accrued paid leave - healthcare
8 coverage - codification - effective date]
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10 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

11 SECTION 1. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 88.1 of Title 40, unless there
13 is created a duplication in numbering, reads as follows:

14 A. For the purpose of all Oklahoma state employees, in addition
15 to the provisions that govern pregnancy, childbirth, adoption or a
16 related medical condition defined in the federal Family and Medical
17 Leave Act, each of the following shall be an unlawful employment
18 practice:

19 1. For a state employer to refuse to allow an employee disabled
20 by pregnancy, childbirth, or a related medical condition or for
21 adoption or foster care placement of a child, to take a leave for a
22 reasonable period of time not to exceed twenty (20) weeks and
23 thereafter return to work after the authorized leave at the next
24 regularly scheduled business day. The state employee shall be

1 entitled to utilize any accrued paid leave during this period of
2 time. "Reasonable period of time" means that period during which
3 the employee is disabled because of pregnancy, childbirth, or a
4 related medical condition or for adoption or foster care placement
5 of a child.

6 A state employer may require a state employee who plans to take
7 a leave pursuant to this subsection to give reasonable notice of the
8 date the leave shall commence and the estimated duration of the
9 leave;

10 2. a. for a state employer to refuse to maintain and pay for
11 coverage for an eligible employee who takes leave
12 pursuant to paragraph 1 of this subsection under a
13 group health plan, as defined in Section 5000(b)(1) of
14 the Internal Revenue Code of 1986, for the duration of
15 the leave, not to exceed twenty (20) weeks over the
16 course of a twelve-month period, commencing on the
17 date the leave taken under paragraph 1 of this
18 subsection begins, at the level and under the
19 conditions that coverage would have been provided if
20 the employee had continued in employment continuously
21 for the duration of the leave. Nothing in this
22 paragraph shall preclude a state employer from
23 maintaining and paying for coverage under a group
24 health plan beyond the twenty-week period. A state

1 employer may recover from the state employee the
2 premiums paid as required under this subsection for
3 maintaining coverage for the state employee under the
4 group health plan if both of the following conditions
5 occur:

6 (1) the state employee fails to return from leave
7 after the period of leave to which the employee
8 is entitled has expired, and

9 (2) the state employee's failure to return from leave
10 is for a reason other than one of the following:

11 (a) the employee taking leave under the federal
12 Family and Medical Leave Act, or

13 (b) other circumstance beyond the control of the
14 employee,

15 b. Any employment agreement shall govern with respect to
16 the continued receipt by an eligible employee of the
17 health care coverage specified in subparagraph a of
18 paragraph 2 of this subsection;

19 3. a. for a state employer to refuse to provide reasonable
20 accommodation for a state employee for a condition
21 related to pregnancy, childbirth or for adoption or
22 foster care placement of a child or a related medical
23 condition, if requested, with the advice of a health
24 care provider,

1 b. for a state employer who has a policy or practice
2 authorizing the transfer of temporarily disabled
3 employees to less strenuous or hazardous positions for
4 the duration of the disability to refuse to transfer a
5 pregnant employee who so requests,

6 c. for a state employer to refuse to temporarily transfer
7 a pregnant employee to a less strenuous or hazardous
8 position temporarily or for the duration of the
9 pregnancy if requested, with the advice of a
10 physician, where that transfer can be reasonably
11 accommodated. However, no employer shall be required
12 by this subsection to create additional employment
13 that the employer would not otherwise have created,
14 nor shall the employer be required to discharge any
15 employee, transfer any employee with more seniority or
16 promote any employee who is not qualified to perform
17 the job; and

18 4. For a state employer to interfere with, restrain or deny the
19 exercise of, or the attempt to exercise, any right provided under
20 this section.

21 B. This section shall not be construed to affect any other
22 provision of law relating to sex discrimination or pregnancy, or in
23 any way to diminish the coverage of pregnancy, childbirth or a
24 medical condition related to pregnancy or childbirth or adoption

1 under any other provision of law of this state or the federal Family
2 and Medical Leave Act.

3 C. Any violation of the provisions of this act may be enforced
4 by the discriminated state employee in a civil action filed in the
5 district court of the county where the state employer's principal
6 office is located. In addition to a civil action, the Commissioner
7 of Labor may impose an administrative fine as authorized by Section
8 89 of Title 40 of the Oklahoma Statutes.

9 SECTION 2. This act shall become effective November 1, 2017.

10 Passed the Senate the 20th day of March, 2017.

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Presiding Officer of the Senate

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14 Passed the House of Representatives the ____ day of _____,

15 2017.

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Presiding Officer of the House
of Representatives

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